



CHAIRMAN

Federal Communications Commission

Washington, D.C.  
March 2, 2005

02-278

RECEIVED

The Honorable Gwen Moore  
U.S. House of Representatives  
1408 Longworth House Office Building  
Washington, D.C. 20515

DOCKET FILE COPY ORIGINAL

MAR 11 2005

Federal Communications Commission  
Office of the Secretary

Dear Congresswoman Moore:

Thank you for your recent letter regarding the Commission's rules implementing the Telephone Consumer Protection Act of 1991 ("TCPA"), and the Consumer Bankers Association's Petition for Declaratory Ruling on Preemption of Wisconsin Telemarketing Rules.

The Commission adopted rules establishing a national do-not-call registry and other amendments to its telemarketing rules in a *Report and Order* that it released on July 3, 2003. In establishing the national do-not-call registry, we recognized that states traditionally have had jurisdiction over intrastate calls, while the Commission has had jurisdiction over interstate calls. However, Congress enacted Section 227 and amended Section 2(b) of the Communications Act of 1934 to give the Commission jurisdiction over both interstate and intrastate telemarketing calls. Congress did so based upon the concern that states lack jurisdiction over interstate calls. In the *Report and Order*, the Commission also noted that, although Section 227(e) gives states authority to impose more restrictive intrastate regulations, we believe that it was the clear intent of Congress generally to promote a uniform regulatory scheme under which telemarketers would not be subject to multiple, conflicting regulations.

Therefore, the Commission concluded that any state regulation of interstate telemarketing calls that differs from Commission rules almost certainly would conflict with and frustrate the federal scheme, and almost certainly would be preempted. We indicated that the Commission will consider any alleged conflicts between state and federal requirements and the need for preemption, on a case-by-case basis. Accordingly, any party that believes a state law is inconsistent with Section 227 or our rules may seek a declaratory ruling from the Commission. We reiterated the interest in uniformity – as recognized by Congress – and encouraged states to avoid subjecting telemarketers to inconsistent rules.

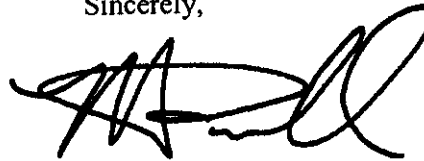
The Commission has received six petitions for declaratory ruling seeking preemption of certain state telemarketing laws. These petitions currently are under review and pending before the Commission. We have placed a copy of your correspondence in the public record for these proceedings, and will consider your views carefully along with the record developed in the proceeding.

No. of Copies rec'd 2  
List ABCDE

Page 2—The Honorable Gwen Moore—March 2, 2005

I appreciate your comments and support for the federal do-not-call list. Please do not hesitate to contact me if I can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael K. Powell", with a large, stylized loop at the end.

Michael K. Powell

GWEN MOORE  
4TH DISTRICT, WISCONSIN

WASHINGTON OFFICE:  
1406 LONGWORTH HOUSE OFFICE BUILDING  
(202) 225-4572

**Congress of the United States  
House of Representatives**

**Washington, DC 20515-4904**

**January 31, 2005**

*CCB  
Policy  
PV  
MKP  
218*

Office of the Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Room TW-B204  
Washington, DC 20554-0001

Dear Commissioners:

I write to urge you to reject any request which would effectively weaken Wisconsin's no call law.

Under the federal law that would replace Wisconsin's no call list, consumers who have a business relationship with one company could expect to receive calls from a variety of companies affiliated with that business even though the product they sell is of no interest to the consumer. Wisconsin's law allows only the primary company with which a consumer has done business to call them.

In addition, the federal law allows business to repeatedly call customers who have ended their relationship with that business for 18 months. Wisconsin's law prohibits such repetitive calls.

I ask you to respect the fact that our state has chosen greater protections for its citizens.

Thank you for your attention.

Sincerely,

*Gwen Moore*  
Gwen Moore

MEMBER OF CONGRESS

GM/as

PRINTED ON RECYCLED PAPER

RECEIVED TIME FEB. 1. 4:59PM

PRINT TIME FEB. 1. 4:59PM



4<sup>th</sup> CONGRESSIONAL DISTRICT OF WISCONSIN

**CONGRESSWOMAN  
GWEN MOORE**

**FAX COVER SHEET**

DATE: 2-1-05 TOTAL PAGES: 2  
ATTENTION: Office of the Secretary  
PHONE NUMBER: \_\_\_\_\_  
FAX NUMBER: 418-2806  
FROM: Andrew Stevens

1408 Longworth House Office Building  
Washington, DC 20515  
(202) 225-4572 - phone  
(202) 225-8135 - fax

COMMENTS: